

LEE M. TESSER +
STEVEN COHEN*
STEPHEN PAUL WINKLES*
ROBERT E. BENNETT+
FRANCIS A. KIRK*
GINA A. MAKOUJY, LL.M.+
DANIELLE E. COHEN*
MATTHEW LAKIND*



NEW YORK OFFICE
30 WALL STREET
8TH FLOOR
NEW YORK, NEW YORK 10005-2205
(212) 226-1900
FACSIMILE: (201) 343-0885

* NY and NJ Bar
+ NJ Bar
x Mass. Bar
° Rule 1:40 Qualified Mediator

VIA ELECTRONIC FILING

August 3, 2022

Hon. Analisa Torres
United States Courthouse
500 Pearl St.
New York, NY 10007

**RE: Mota Bautista et al v. Countywide Builders, Inc. et al
Index No.: 1:19-cv-08808-AT
Our File No.: 2058-01**

Dear Judge Torres:

This office represents Defendants, Carben Industries, Inc., Carben Concrete, Inc., Carben Construction, Inc., Anthony Logiudice, and Ronald Browning (collectively, "Carben"). Enclosed please find Carben's responses to Plaintiff's Statement of Additional Facts directed at Carben, which was inadvertently left out of Carben's July 27, 2022 filing.

If Your Honor has any questions, or wishes to discuss this matter further, please do not hesitate to contact my office.

Respectfully,

Matthew Lakind, Esq.

cc. All counsel (via email and E-filing)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GERARDO MOTA BAUTISTA, HUGO	:	
BAUTISTA, JUAN LUIS OVANDO	:	INDEX NO.: 19-cv-08808
ZEPEDA, JUAN ZEPEDA, JULIO	:	
RICARDO ALVAREZ MACATOMA,	:	
LEONCIO TORRES ACUNA, MARIO	:	<i>Civil Action</i>
MORALES ROJAS, OMAR RODRIGUEZ,	:	
and ANTONIO LIMON HERNANDEZ	:	
<i>individually and on behalf of others similarly situated,</i>	:	
	Plaintiffs,	DEFENDANTS CARBEN INDUSTRIES, INC., CARBEN CONCRETE, INC., CARBEN CONSTRUCTION, INC., ANTHONY LOGIUDICE AND RONALD BROWNING'S <u>RESPONSE TO PLAINTIFFS' STATEMENT OF ADDITIONAL FACTS</u>
vs.	:	
COUNTY-WIDE MASONRY CORP.,	:	
CARBEN INDUSTRIES, INC., CARBEN	:	
CONCRETE, INC., CARBEN	:	
CONSTRUCTION, INC., ANTHONY	:	
DERASMO, ANTHONY LOGIUDICE,	:	
RONALD BROWNING, and MARTIN DOE	:	
a/k/a PERU	:	
	Defendants.	
	:	
CARBEN INDUSTRIES, INC.	:	
	:	
Third Party Plaintiff,	:	
	:	
vs.	:	
BATRUME INDUSTRIES, INC. and	:	
COUNTY-WIDE CONSTRUCTION CORP.,	:	
	:	
Third-Party Defendants.	:	
	:	

Defendants Carben Industries, Inc., Carben Concrete, Inc., Carben Construction, Inc., Anthony Logiudice and Ronald Browning (collectively, "Carben"), by their attorneys, Tesser & Cohen, respectfully submits this Response to Plaintiffs' Statement of Additional Facts. Any additional facts referenced herein are included in Carben's separate Motion for Summary Judgment and its own Statement of Material Facts submitted in support of same.

CARBEN RESPONSE TO PLAINTIFFS' STATEMENT OF "ADDITIONAL FACTS" DIRECTED AT
CARBEN

1. The Plaintiffs have never heard of Batrume Industries. (Acuna Dep. 15:5-7, Rodriguez Dep. 20:13-15, Bautista Dep. 38:8-10, Rojas Dep. 26:7-8, Ovando-Zepeda Dep. 20:8-10).

Response: Undisputed.

2. Plaintiffs worked at job sites in both Manhattan and Brooklyn pursuant to contracts between County-Wide and Carben. (Ovando-Zepeda Dep. 10:5-10, Rodriguez Dep. 13:11-14, Mota Bautista Dep. 22:8-12, Acuna Dep. 10:11-14, Rojas Dep. 10:18-23, Exhibits L-M)

Response: Disputed. As stated in Carben's Statements of Fact, none of the Plaintiffs testified that they worked for Carben or were employed by Carben. None of the testimony cited in this Statement references any contract between Carben and County Wide.

3. As part of Carben's contract with County-Wide, they agreed to provide labor to the job site located at 120 Water St. (Ex. M, Sec. 1.1)

Response: Objection as the Statement does not describe the scope of the “labor”. Otherwise, the contract speaks for itself.

4. As part of Carben’s contract with County-Wide, Carben agreed to certain conditions regarding the labor they would supply to the job site located at 120 Water St. (Ex. M, Sec. 3.4)

Response: Objection as the Statement does not describe the scope of the “labor” or “conditions”. Otherwise, the contract speaks for itself.

5. As a part of Carben’s contract with County-Wide, Carben agreed to provide labor to the job site located at 120 Water St. (Ex. L, Sec. 1.1)

Response: Objection as the Statement does not describe the scope of the “labor”. Otherwise, the contract speaks for itself.

6. As a part of Carben’s contract with County-Wide, Carben agreed to certain conditions regarding the labor they would supply to the job site located at 70 Schermerhorn. (Ex. L, Sec. 3.4)

Response: Objection as the Statement does not describe the scope of the “labor” or “conditions”. Otherwise, the contract speaks for itself.

7. Carben was compensated for providing labor and materials under its contracts with County-Wide. (Derasmo Dep. 39:5-13).

Response: Disputed. See Carben’s response to County Wide’s Statement of fact #53. Also, Carben submits that this fact is not “material”.